UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/014,732	12/11/2001	Ikuo Tsukagoshi	SONY-30000	5777

28960 7590 02/18/2009

HAVERSTOCK & OWENS LLP
162 N WOLFE ROAD
SUNNYVALE, CA 94086

EXAMINER	
TOPGYAL, GELEK W	

ART UNIT	PAPER NUMBER
2621	

MAIL DATE	DELIVERY MODE
02/18/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte IKUO TSUKAGOSHI and KLAUS ZIMMERMANN

Appeal 2009-0399
Application 10/014,732
Technology Center 2600

Decided:[1] February 18, 2009

Before JOSEPH F. RUGGIERO, JOHN A. JEFFERY, and R. EUGENE VARNDELL, JR., *Administrative Patent Judges*.

JEFFERY, *Administrative Patent Judge*.

---

[1] The two-month time period for filing an appeal or commencing a civil action, as recited in 37 CFR § 1.304, begins to run from the decided date shown on this page of the decision. The time period does not run from the Mail Date (paper delivery) or Notification Date (electronic delivery).

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134 from the Examiner's rejection of claims 1-24. We have jurisdiction under 35 U.S.C. § 6(b). We affirm.

STATEMENT OF THE CASE

Appellants invented a method, system, and medium for timeshifting the encoding and decoding of a compressed audio/video (AV) bitstream. The encoding step or the encoder encodes the bitstream from among a number of coding schemes. The encoded bitstream is stored and decoded for playback.[2] Claim 1 reads as follows:

1. A method comprising:

encoding a compressed domain bitstream utilizing a coding scheme selected from a variety of coding schemes;

storing the encoded bitstream;

retrieving the encoded bitstream after a period of time; and

decoding the retrieved bitstream.

The Examiner relies upon the following as evidence in support of the rejection:

Yang	US 5,270,829	Dec. 14, 1993
Fujinami	US 5,455,684	Oct. 3, 1995
Suzuki	US 6,148,135	Nov. 14, 2000

[2] *See generally* Spec. ¶¶ 8, 31-35, 52, 53 and 58-60.

Aotake	US 6,411,771 B1	Jun. 25, 2002 (filed Jul. 8, 1998)

(1) Claims 1, 3-5, 9-12, 14-16, and 20-24 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Aotake (Ans. 3-6).

(2) Claims 2 and 13 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Aotake and Yang (Ans. 6 and 7).

(3) Claims 6 and 17 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Aotake and Suzuki (Ans. 7 and 8).

(4) Claims 7, 8, 18, and 19 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Aotake and Fujinami (Ans. 8-10).

Rather than repeat the arguments of Appellants or the Examiner, we refer to the Brief and the Answer[3] for their respective details. In this decision, we have considered only those arguments actually made by Appellants. Arguments which Appellants could have made but did not make in the Brief have not been considered and are deemed to be waived. *See* 37 C.F.R. § 41.37(c)(1)(vii).

ANTICIPATION REJECTION OVER AOTAKE

Appellants group the claims as follows: (1) claims 1, 3-5, and 9-11; (2) claims 12, 14-16, and 20-22; (3) claim 23; and (4) claim 24 (Br. 5-7). Each grouping will be addressed separately.

[3] Throughout this opinion, we refer to (1) the Appeal Brief filed April 16, 2007 and (2) the Examiner's Answer mailed July 6, 2007.

Claims 1, 3-5, and 9-11

The Examiner finds that Aotake discloses all the limitations recited in representative claim 1,[4] including the step of encoding a compressed domain bitstream utilizing a coding scheme selected from a variety of coding schemes (Ans. 3 and 4). Appellants argue Aotake does not disclose a coding scheme which is selected from a variety of coding schemes (Br. 5 and 6).

ISSUE

Have Appellants shown the Examiner erred in finding Aotake discloses an encoding step of "utilizing a coding scheme selected from a variety of coding schemes" in rejecting claim 1 under § 102?

FINDINGS OF FACT

The record supports the following findings of fact (FF) by a preponderance of the evidence.

1. Aotake discloses the step of recording audio visual (AV) input data using a MPEG1 real time encoder board 213 and hard disc 212 (Aotake, col. 13, l. 54 - col. 14, l. 29, col. 25, ll. 42-47, and col. 38, ll. 51-56; Figs. 6A, 6B, and 18)

2. Aotake discloses a user can select (at recording mode field 327) from a variety of recording modes, including "High," "Normal," "Long," and "Network." Each recording mode has numerous characteristics, such as size, system bit rate, video bit rate, frame rate, audio bit rate, audio recording

[4] Appellants group claims 1, 3-5, and 9-11 (Br. 5 and 6). Accordingly, we select independent claim 1 as representative. 37 C.F.R. § 41.37(c)(1)(vii).

mode, and amount of recording time (Aotake, col. 3, ll. 6 and 7 and col. 28, l. 42 - col. 30, l. 33; Figs. 8 and 10).

3. In the "High" recording mode, the size of the frame is 320 x 240, the system bit rate is 2379200 bits per second (bps), the video bit rate is 2120000 bps, the frame rate is 30 frames per second (fps), the audio bit rate is 224000 bps, and the audio recording mode is "dual/stereo" (Aotake, col. 28, ll. 47-61; Fig. 10).

4. In the "Normal" recording mode, the size of the frame is 352 x 240, the system bit rate is 1411200 bps, the video bit rate is 1151929 bps, the frame rate is 30 fps, the audio bit rate is 224000 bps, and the audio recording mode is "dual" (Aotake, col. 28, ll. 47-61 and Fig. 10).

5. Appellants do not challenge that the data being encoded in Aotake is a compressed domain bitstream (Br. 5-8).

6. The Specification provides examples of coding schemes (Spec. ¶ 52).

PRINCIPLES OF LAW

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of Calif.*, 814 F.2d 628, 631 (Fed. Cir. 1987).

During examination of a patent application, a claim is given its broadest reasonable construction "in light of the specification as it would be interpreted by one of ordinary skill in the art." *In re Am. Acad. Of Sci. Tech. Ctr.*, 367 F.3d 1359, 1364 (Fed. Cir. 2004).

ANALYSIS

We begin by determining the scope of the limitation, "a coding scheme," in claim 1. The Specification provides examples of coding schemes (FF 6), but does not include a definition for this term. We, therefore, construe the phrase, "a coding scheme," with its broadest reasonable interpretation, and find that a coding scheme is digitizing or configuring data into code.

Aotake discloses AV data is inputted into an encoder 213 (FF 1). Appellants do not challenge that the data is a compressed domain bitstream (FF 5). Aotake, therefore, discloses encoding a compressed domain bitstream as recited in claim 1. Additionally, Aotake discloses numerous recording modes or formats for recording the AV data (FF 2). For example, in the "High" format, the size of the frame is 320 x 240, the system bit rate is 2379200 bps, the video bit rate is 2120000 bps, the frame rate is 30 fps, the audio bit rate is 224000 bps, and the audio recording mode is "dual/stereo" (FF 3). In the "Normal" format, the size of the frame is 352 x 240, the system bit rate is 1411200 bps, the video bit rate is 1151929 bps, the frame rate is 30 fps, the audio bit rate is 224000 bps, and the audio recording mode is "dual" (FF 4). As each of the modes has a different format (FF 2-4), each has different ways of digitizing or configuring the AV data into code and storing this data on hard disc 212. Moreover, because each recording mode has different digitizing formats, Aotake allows the user to select a coding scheme (e.g., "High") from a variety of coding schemes (e.g., "High," Normal," "Long," and "Network.") (*Id.*) Thus, Aotake discloses the encoding a compressed domain bitstream step by "utilizing a coding scheme selected from a variety of coding schemes" as recited in claim 1.

For the foregoing reasons, Appellants have not shown error in the rejection of independent claim 1 based on Aotake. We will thus sustain the rejection of claim 1, and claims 3-5 and 9-11 which fall with claim 1.

Claims 12, 14-16, and 20-22

Representative claim 12[5] recites a system having an encoder for encoding a bitstream by "utilizing a coding scheme selected from a variety of coding schemes." The Examiner finds Aotake discloses all the limitations of representative independent claim 12 (Ans. 3, 4, and 6). Appellants refer to the arguments presented for claim 1 (Br. 6). We are not persuaded by Appellants' argument for the reasons previously discussed with regard to Aotake and claim 1.

For the above reasons, Appellants have not shown error in the rejection of independent claim 12 based on Aotake. We, thus, will sustain the rejection of claim 12, and claims 14-16 and 20-22 which fall with claim 12.

Claim 23

Claim 23 recites a system having a means for encoding a bitstream by "utilizing a coding scheme selected from a variety of coding schemes." The Examiner finds Aotake discloses all the limitations of independent claim 23 (Ans. 3, 4, and 6). Appellants again refer to their previous arguments (Br. 6 and 7). We are therefore not persuaded by Appellants' argument for the

[5] Appellants group claims 12, 14-16, and 20-22 (Br. 6). Accordingly, we select independent claim 12 as representative. 37 C.F.R. § 41.37(c)(1)(vii).

above-stated reasons, and Appellants have not shown error in the rejection of independent claim 23 based on Aotake.

Claim 24

Claim 24 recites a computer readable medium having a means for encoding a bitstream by "utilizing a coding scheme selected from a variety of coding schemes." The Examiner finds Aotake discloses all the limitations in independent claim 24 (Ans. 3, 4, and 6). Appellants repeat the arguments made with regard to claim 1 (Br. 7). We are not persuaded by Appellants' argument for the reasons disclosed above with regard to Aotake and claim 1, and Appellants have not shown error in the rejection of independent claim 24 based on Aotake.

OBVIOUSNESS REJECTION OVER AOTAKE AND YANG

The Examiner finds that the combination of Aotake and Yang teaches all the elements in claims 2 and 13 (Ans. 6 and 7). Appellants refer to the argument made with regard to claims 1 and 12 (Br. 7). As these arguments are the same as those presented with respect to claims 1 and 12, we are not persuaded for the previously-stated reasons. These arguments also fail to persuasively rebut the Examiner's prima facie case of obviousness – a position we find reasonable.

For the foregoing reasons, Appellants have not shown error in the Examiner's obviousness rejection of claims 2 and 13 based on Aotake and Yang.

OBVIOUSNESS REJECTION OVER AOTAKE AND SUZUKI

The Examiner finds that the combination of Aotake and Suzuki teaches all the elements in claims 6 and 17 (Ans. 7 and 8). Appellants refer to the argument relating to claims 1 and 12 (Br. 7 and 8). As these arguments are the same as those presented with respect to claims 1 and 12, we are not persuaded for the previously discussed reasons. These arguments also fail to persuasively rebut the Examiner's prima facie case of obviousness – a position we find reasonable.

For the foregoing reasons, Appellants have not shown error in the Examiner's obviousness rejection of claims 6 and 17 based on Aotake and Suzuki.

OBVIOUSNESS REJECTION OVER AOTAKE AND FUJINAMI

The Examiner finds that the combination of Aotake and Fujinami teaches all the elements in claims 7, 8, 18, and 19 (Ans. 8-10). Once again, Appellants refer to the argument related to claims 1 and 12 (Br. 8). We are not persuaded for the reasons disclosed above in connection with claims 1 and 12. These arguments also fail to persuasively rebut the Examiner's prima facie case of obviousness – a position we find reasonable.

For the foregoing reasons, Appellants have not shown error in the Examiner's obviousness rejection of claims 7, 8, 18, and 19 based on Aotake and Fujinami.

CONCLUSION

Appellants have not shown the Examiner erred in finding that Aotake discloses the step of "utilizing a coding scheme selected from a variety of coding schemes" in rejecting claims 1, 12, 23, and 24 under § 102.

ORDER

We affirm the Examiner's rejection of all the claims on appeal.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

ELD

HAVERSTOCK & OWENS LLP
162 N WOLFE ROAD
SUNNYVALE, CA 94086